

## Senate Bill No. 77

### CHAPTER 358

An act to amend Section 5406 of, and to add Section 5406.6 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 7, 1999. Filed  
with Secretary of State September 7, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 77, Murray. Workers' compensation: death benefits: statute of limitations.

Existing law specifies the time period within which various proceedings may be commenced under provisions of law relating to workers' compensation. In general, a proceeding to collect death benefits is required to be commenced within one year from the date of death or, in some cases, from the last furnishing of benefits. However, no proceedings may be commenced more than 240 weeks from the date of injury.

This bill would enact the Cliff Ojala Death Benefits Act, which would require that a proceeding to collect those benefits for the death of a health care worker, public safety employee, or certain correctional peace officers from an HIV-related disease be commenced within one year from the date of death, provided that certain events have occurred.

The bill would make legislative findings and declarations.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known and may be cited as the Cliff Ojala Death Benefits Act.

SEC. 2. The Legislature finds and declares as follows:

(a) An HIV-infected worker may be asymptomatic for as long as 10 years.

(b) The current statute of limitations restricts the ability of the surviving spouse and other dependents of a worker who is infected with HIV in the workplace to file a workers' compensation claim for death benefits if the worker does not die of the disease within 240 weeks of the date of injury.

(c) It is the intent of the Legislature to ensure that the dependents of workers whose death is caused by an HIV infection sustained in the workplace will receive the death benefits provided by the Labor Code even though the death may occur more than 240 weeks after the date of the initial injury.

SEC. 3. Section 5406 of the Labor Code is amended to read:

5406. Except as provided in Section 5406.5 or 5406.6, the period within which may be commenced proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from:

- (a) The date of death where death occurs within one year from date of injury; or
- (b) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, where death occurs more than one year from the date of injury; or
- (c) The date of death, where death occurs more than one year after the date of injury and compensation benefits have been furnished.

No such proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

SEC. 4. Section 5406.6 is added to the Labor Code, to read:

5406.6. (a) In the case of the death of a health care worker, a worker described in Section 3212, or a worker described in Section 830.5 of the Penal Code from an HIV-related disease, the period within which proceedings may be commenced for the collection of benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from the date of death, providing that one or more of the following events has occurred:

(1) A report of the injury or exposure was made to the employer or to a governmental agency authorized to administer industrial injury claims, within one year of the date of the injury.

(2) The worker has complied with the notice provisions of this chapter and the claim has not been finally determined to be noncompensable.

(3) The employer provided, or was ordered to provide, workers' compensation benefits for the injury prior to the date of death.

(b) For the purposes of this section, "health care worker" means an employee who has direct contact, in the course of his or her employment, with blood or other bodily fluids contaminated with blood, or with other bodily fluids identified by the Division of Occupational Safety and Health as capable of transmitting HIV, who is either (1) any person who is an employee of a provider of health care, as defined in subdivision (d) of Section 56.05 of the Civil Code, including, but not limited to, a registered nurse, licensed vocational nurse, certified nurse aide, clinical laboratory technologist, dental hygienist, physician, janitor, or housekeeping worker, or (2) an employee who provides direct patient care.

